

Unlocking the power of TSD chapters to better protect animals

Eurogroup for Animals' contribution to the EU's TSD Review

Introduction

Eurogroup for Animals welcomes the public consultation about the review of the European Commission's 15-Point Action Plan, and hope this exercise will lead to the adoption of a more comprehensive and ambitious approach towards sustainability in trade policy. Such an approach must imply not only the inclusion of more enforceable TSD chapters in EU FTAs, but also more consideration of the elements in Free Trade Agreements (FTAs) that can have an impact on sustainability, but are not part of TSD chapters.

Currently, EU trade policy is blind to production methods and how products are made matters. As an illustration, existing EU FTAs grant significant market access to animal products without any additional conditions related to animal welfare or sustainability. These provisions in the FTA can impact sustainable development by stimulating unsustainable sectors, and therefore, contradict the objectives laid down in TSD chapters. Market access chapters benefit from clear language setting out detailed obligations, and their enforcement mechanism is efficient. On the other hand, TSD chapters suffer from weak language, poor financial and political resources, and their enforcement mechanism is weak. This asymmetry leads to EU trade policy and FTAs often hindering the EU's sustainability agenda.

The EU should take the opportunity of this review to adopt a holistic approach and reconcile its trade policy with the objectives listed in the EU Green Deal and in the Farm-to-Fork strategy. Such an approach should encompass the following dimensions:

- **Preferential market access should be made conditional upon the respect of relevant sustainability commitments, including on animal welfare for animal-based products:** Obtaining preferential market access is the strongest incentive for foreign producers to improve standards, as was witnessed with the EU Slaughter Regulation - which imposes rules on the welfare at the time of slaughter on imports. It is also the only tool to ensure an EU trade agreement does not lead to externalisation of concerns (related to animals or the environment) that EU legislation strives to fight.
- **A recognition of the inherent links existing between animal welfare and sustainable development, as acknowledged by the EU Farm to Fork Strategy:** The world is facing global challenges - such as the spread of zoonoses, the surge in antimicrobial resistance and the climate and biodiversity crises - and at the heart of these challenges, often lies the food system and animal welfare. Recognising the link between animal welfare and sustainable development in TSD chapters is necessary to avoid a silo-based approach that could lead to countries discussing solutions to global challenges that would have detrimental impact on the welfare of animals, and therefore, on the long run, on our wellbeing as well.

Eurogroup for Animals also supports, jointly with Clientearth, Veblen Institute, FERN and Fondation Nicolas Hulot, more general demands aimed at making EU trade policy more coherent with sustainability objectives:

1. EU FTAs should feature a number of structural provisions to put sustainability at the core of trade agreements
2. EU FTAs should set conditional preferential tariffs for certain products
3. EU FTAs should include specific, measurable and enforceable sustainability provisions
4. EU FTAs should include an *ex-post* monitoring system and a ‘review and revision’ clause
5. EU FTAs should include an obligation to establish a complaint mechanism along with formal procedural rules
6. EU FTAs should reinforce the expertise and powers of the panel of experts provided in the TSD chapter
7. EU FTAs should include the possibility of penalties/sanctions in case of violations of environmental obligations
8. EU FTAs should clarify and reinforce the role and powers of Domestic Advisory Groups (DAGs) in the monitoring, enforcement and dispute settlement processes
9. EU FTAs negotiations should ensure democratic participation and involve relevant sustainability experts and decision makers
10. EU FTAs negotiations should be based on sound ex ante sustainability impact assessments

Eurogroup for Animals' responses to the consultation

Question 1: The EU addresses sustainability challenges with cross-border implications in dedicated multilateral fora (e.g. on climate change and biological diversity) and via its autonomous measures (including legislative ones). Against this background, what should be the contribution of the EU trade policy to promote the transition to a greener, fairer and more sustainable economy? How should the implementation and enforcement of TSD chapters in FTAs complement and support the EU's multilateral and autonomous initiatives?

While it is crucial that the EU continues its effort in multilateral fora, it is likewise important to ensure that EU trade policy does not hinder such efforts.

How products are made matters. Yet, at this moment, EU trade policy is blind to the production model it fosters and to the nature of the economic sectors it stimulates. Global markets and further

trade liberalisation tend to favour bigger companies that can stand and win the competition. Trade liberalisation without any conditions related to animal welfare or sustainability has led to increased intensification in the livestock farming sector, especially dairy and meat¹. As a reminder, the Sustainability Impact Assessments (SIAs) recently drafted on EU-New Zealand and EU-Mercosur negotiations confirm this link between increased trade and intensification of animal productions, concluding that, in both cases, any FTA scenario will lead to the further intensification of the ruminant meat sector². This effect of EU FTAs contradicts several objectives of the EU TSD chapters.

In addition to being intrinsically detrimental to animal welfare, the intensification of animal agriculture has also fuelled the climate and biodiversity crises, which are at the heart of TSD chapters.

- The welfare of farmed animals, and the kind of production systems in which they are kept, has an impact on biodiversity and habitat conservation. Livestock production is said to be ‘the single most powerful driver of habitat loss on Earth’³ and 80% of terrestrial birds and mammal species currently considered as threatened are challenged by habitat loss driven by agricultural activities.⁴
- In 2013, about 58% of marine stocks were fully exploited – a significant proportion of which is processed into high-protein feed for pigs and chickens – with no potential for increased production. A decrease in livestock population and/or the use of an alternative source of feed, such as seaweed and algae, in these sectors, can therefore do much to prevent further depletion of marine stocks.
- The livestock supply chain also accounts for 14.5% of global greenhouse gas (GHG) emissions. There is an issue of quantity, but the way we raise animals also matters. According to the IPBES, “approximately 25% of the globe’s GHG emissions come from land clearing, crop production and fertilisation, with animal-based food contributing 75% of that. Intensive agriculture has increased food production at the cost of regulating and non-material contributions from nature”. In addition to potentially allowing for higher animal welfare standards, grass-based and mixed-farm systems, less dependent on additional feed, also have better capacities for carbon sequestration.⁵

The trade in wild animals - even legal - also has implications not only for the welfare of these animals, but also for biodiversity. Each year, millions of wild animals are captured or killed, ending up either in parts that are often used for traditional medicine, food or trophy purposes, or in cages, as pets. The harvesting of wild animals can deplete native populations up to 70%⁶. Crude and non-species-specific methods used to catch these animals can damage the ecosystem and result in injuries or death for both target and non-target animals. It has been estimated that for every

¹ Clay, N., Garnett, T. & Lorimer, J. Dairy intensification: Drivers, impacts and alternatives. *Ambio* 49, 35–48 (2020) & <https://feedbackglobal.org/its-big-livestock-versus-the-planet-whos-side-are-we-on/>

² European Commission, Trade Sustainability Impact Assessment in support of FTA negotiations between the European Union and New Zealand, Draft Final Report, December 2019 & LSE, SIA in support of the association agreement negotiations between the European Union and Mercosur, Draft Final Report, July 2020, p.188

³ Machovina et al (2015) quoted in Greenpeace, *Less is More*, 2018, p.25

⁴ Tilman in Greenpeace, *Less is More*, 2018, p.28

⁵ Canu & Forabosco (UNEP DTU 2018), “[Greenhouse gas emissions of livestock raised in a harsh environment](#)”, *International Journal of Global Warming*, Vol. 15 No. 4, pp. 431-446.

⁶ EcoHealth Alliance, 2011.

chimpanzee kept as a pet or in a zoo, another 10 animals died due to the capture or trade conditions⁷.

To date, when discussing trade and sustainable development, the European Commission puts the emphasis solely on EU Trade and Sustainable Development (TSD) chapters included in EU FTAs. These chapters reiterate international commitments and include cooperation mechanisms. This creates two sets of issues:

- First, the chapters are only replicating commitments made in these international fora, with no further means of enforcement as the dispute settlement mechanism attached to TSD chapters ends with the publication of a panel report. If a violation of commitments persists, there is no tool to put additional pressure on the partner, apart from diplomacy.
- Secondly, the results of the established cooperation entirely depend on the political willingness of the partner to act, and on resources available to do so. While trade agreements directly impact trade flows - and potentially production patterns - the cooperation launched under the TSD chapters can take years - even decades - to create progress. When looking at issues like deforestation, with the tipping point so near, this is a time we might not have.
- Thirdly, in many fields, international commitments are lacking, which means that the explicit scope of cooperation offered by the TSD chapters can be limited.

The EU should thus consider different tools to ensure coherence between its action in multilateral fora and its trade policy, and thus to address the impact of EU trade policy on sustainability-related fields, including animal welfare. Steps forward could be:

- Conditioning preferential access to the EU market on the respect of standards and commitments which could be listed in the TSD chapter.
- Improving the language in TSD chapters, not only to offer cooperation opportunities that do not arise from international conventions, but also to reflect extra commitments the Parties could take where needed.

Question 2: What have been the main benefits of closer collaboration of the European Commission with the European Parliament, with the Member States, other relevant EU institutions and bodies and international organizations on the implementation and enforcement of TSD chapters? How should these partnerships be shaped going forward?

From the information Eurogroup for Animals has received through its work on DAGs, it seems that the EU has focused its attention mostly on the International Labour Organisation (ILO). Several joint projects have been announced in partner countries with the ILO, but not much has happened on environmental issues. While this can be partly explained by the multiplicity of Multilateral Environmental Agreements (MEAs), the European Commission should put more energy in developing bridges with environmental-related bodies, such as CITES or CBD. Contrary to ILO conventions, enforcement mechanisms are also weaker in agreements like CITES or CBD, and the

⁷ Stiles et al, 2013

European Commission should thus develop a strategy on how to engage with these platforms in the context of TSD chapters.

It is harder to assess the results of the cooperation established between Member States and the Commission on TSD matters. Apart from a handbook produced by Sweden for Andean countries, we have not heard about any other initiative.

An institutional body is absent from the question but key when it comes to discuss collaboration that can benefit the implementation and enforcement of TSD chapters: the EU DAGs. The relevant EU DAGs should be involved in the cooperation taking place between the Commission and the European Parliament, as well as the Member States. It would thus be useful to invite representatives of relevant DAGs in the monthly meeting organised by the Commission with the Member States and to facilitate interactions between the EU DAGs and the European Parliament, especially the INTA monitoring groups.

Question 3: How do you see the role and contribution of DAGs and/or other representatives of employers, trade unions, environmental and other non-governmental organisations in the monitoring of the implementation of TSD chapters? How can they better contribute to the monitoring of the implementation of TSD chapters?

From actively sitting on at least five DAGs (Ukraine, Canada, Andean Countries, Japan and Vietnam), Eurogroup for Animals would point out several issues with the working of the DAGs:

- First, as the provisions of EU FTAs allow for it - or at least do not foresee penalties - the establishment of the DAG in the partner country can take a long time, be very untransparent, or lead to a body that is neither representative of civil society, nor independent. Without a proper partner, the work of the EU DAG is very much constrained.
- Second, the provisions in the TSD chapters are usually quite vague and not easy to enforce (using wording such as “striving” or “when appropriate”). Environmental NGOs - which are often absent from DAGs - will face difficulties to consider what they can advocate for, if they only consider the language in the agreement.
- Third, as there is no public funding available for such work, many civil society organisations have to evaluate whether their involvement in this structure will be impactful. At the moment, because of the reasons expressed above, they are likely - especially environmental organisations - to think it will not. This has led to a lack of representation of environmental concerns in many DAGs, and has affected the quality of the work of such DAGs.

To improve this, the European Commission could consider:

- Creating a line of funding for civil society representatives who participate in DAGs; and to strengthen the expertise on the DAGs;
- Including in trade agreements that DAGs should be up and running from the moment the agreement enters into force, even if provisionally. It should enshrine in the agreements that interactions between DAGs are key, and therefore that contacts between the two DAGs should be facilitated. It should also be clarified in the FTA that DAG representatives should be

allowed to speak in TSD committee meetings, and that the whole DAGs should be debriefed after the TSD committee meeting.

- The DAGs should be allowed to trigger the Dispute Settlement Mechanism attached to the TSD chapter, if they consider there is a violation of the commitments listed in the said chapter.
- The visibility of the DAGs should be improved, notably by improving the virtual presence of such groups. It should be easy for any organisation with an interest in a DAG, or an EU FTA in general, to find its members and a contact to ask questions.

The Single Entry Point has been created, and can address violations of provisions listed in the TSD chapters, but it seems the mechanism has not been used yet for this purpose. This underlines the difficulty arising from the type of the language displayed by many TSD chapters. The case of Korea has been put forward by the European Commission as a victory. On one hand, it confirmed that if a provision is well written, the violation denounced does not need to have a trade effect to be addressed by the Dispute Settlement Body. On the other hand, it also confirmed that language matters: if the FTA says a party should, for instance, strive to achieve something, it cannot be found guilty for not achieving it.

Question 4: In the last years the EU has focused its implementation efforts on specific priorities/partner countries. What would you highlight as the main achievements and/or shortcomings and what improvements could be considered in this regard?

Eurogroup for Animals welcomes the establishment of priorities in TSD-related fields. This is a practice we call for also when it comes to animal welfare cooperation, which will soon be related to TSD chapters as sitting in Sustainable Food Systems (SFS) chapters. Yet, it would be more effective to develop these priorities jointly with civil society organisations, and the relevant EU DAG. In case of mismatch between the priorities of the Commission and the DAG, there is often reluctance from the Commission to address in depth the topics brought up by the DAG, and this can lead to less organisations interested in joining DAGs.

In general, it also feels that labour-related priorities are slightly more specific, detailed and assertive than the ones adopted in the environmental field, and this should change.

The Commission should also develop a better methodology to assess where the modifications to the trade - and possibly production - patterns have impacted negatively the environment, and use these results to define the priorities to be addressed with the trading partners.

Currently, food systems are often kept out of the discussions in TSD committee meetings, even though they have such a central role in many topics that are discussed, such as the biodiversity and climate crises. Eurogroup for Animals hopes that this will change in the future as the EU Trade Policy Review announced that future EU FTAs should include chapters on sustainable food systems - which were described as linked to both TSD chapters and chapters on sanitary and phytosanitary (SPS) measures - and that this topic would also be discussed with existing partners.

Question 5: How can synergies between TSD implementation and development cooperation be further explored? What type of supporting measures for developing partner countries would be needed?

It is important that EU FTAs do not contribute to fuel unsustainable models of production, such as intensive livestock farming practices, in these countries. Eurogroup for Animals thus believes that more synergy can be found between the EU development and trade policies by introducing, where needed, conditional liberalisation in FTAs with developing countries, as well as strong cooperation mechanisms based on technical assistance and capacity-building measures which would cover all animal-related issues that are relevant for developing countries.

Within the poorest populations, 600 million people rely on animals for their livelihood. The EU should thus make sure to introduce in its FTAs with developing countries provisions on animal welfare (see question 12) that do not only cover farmed animals, but also working ones. Around 200 million working animals are essential to the livelihoods of some of the poorest communities. These animals and their socioeconomic value are often taken for granted, and most do not realise the long-term benefits that can arise from ensuring better health and welfare for these animals. A study carried out in Ethiopia showed that 54% of equids were thin, 93% had body lesions from poor handling, and 60% were lame. In rural areas, working animals facilitate farming and transportation; they pull ploughs and carts, deliver goods to market, herd livestock and collect water from wells. Urban uses include construction, the transport of people and goods and refuse collection. By enabling their owners to participate in work, they boost economic capacity and further benefit communities by enabling education, providing access to basic services and supporting gender equality. Simple interventions, such as improved access to good, affordable harnessing, hoof care and veterinary services, can empower owners to keep their animals healthy, therefore ensuring they remain productive, as well as increasing overall awareness of animal health and welfare⁸.

The EU should also consider introducing in EU TSD chapters wording on the welfare of wild animals and sustainable tourism. Animals are not only fundamental in the agricultural sector, but also in tourism, especially in wildlife viewing activities. However, millions of wild animals are captured or killed each year. In addition to having an impact on the welfare of these animals⁹, and on biodiversity in general, wildlife trade also has economic consequences. Keeping the animals in the wild would constitute a boost for the economies of the countries from which these animals originate. 80% of all trips to Africa aim at wildlife viewing. In 2018, the majority of the 350,000 jobs created in the tourism sector in Rwanda were related to gorilla trekking. In its 2018 report, the World Travel & Tourism Council noted that wildlife tourism accounted for five times more in the global GDP than wildlife trade (120 billion USD vs 23 billion USD). In 2017, this industry directly employed more than 9.1

⁸ <https://www.worldhorsewelfare.org/what-we-do/international/sustainable-development-goals>

⁹ Wildlife trade is also a threat to the welfare of these animals. In addition to the animals facing harsh conditions when they are captured and transported, their new owners are not likely to be able to ensure their welfare. Exotic animals have complex needs that are closely tied to their natural diet, environment and behaviour in the wild, and which are not always known¹⁰. It can thus be difficult, if not impossible in some cases, for the average owner to provide for these needs¹⁰.

million people, and generated another 21.8 million jobs indirectly¹⁰. Some activities such as canned hunting of big cats, elephant riding or poorly maintained zoos not only have a detrimental impact on the local biodiversity, but they also portray the country in a negative way. Hence, given the importance of the sector for many economies, the EU TSD Chapters should consider wording promoting sustainable tourism and condemning unsustainable one.

From a practical perspective, in case of an FTA with a developing country, DG INTPA should be invited to update DAGs, so that DAG members are made aware of the wider partnership ongoing with the country in question. That would allow to find more synergies between what DG INTPA is doing and what could be achieved under the FTA, and ensure the coherence of the EU's external action.

Question 6: In view of the objectives and the broad scope of the provisions of TSD chapters of EU FTAs, how do you evaluate the suitability and effectiveness of the current dedicated dispute settlement mechanism for TSD?

The dedicated dispute settlement mechanism for TSD chapters falls short to meet the objectives of the chapter in terms of implementation and enforcement. Indeed, despite clear violations of commitments on labour and environmental standards occurring in certain partner countries, the enforcement mechanism linked to the TSD chapters has only been triggered for the first time in July 2019, with South Korea.¹¹ The ruling of this dispute is informative. The panel ruled out that a commitment in the TSD chapters had to be respected regardless of their impact on trade. This is positive as it shows that the EU could strive to obtain stronger commitments from its partners - for instance, establishing minimum standards that should be respected - in TSD chapters. These commitments would be enforceable as such, without having to connect their violation to any impact on trade between the partners.

However, the ruling also maintained that failure to implement more aspirational commitments does not mean failure to comply with the FTA. If EU TSD chapters rely on weak language - for instance, verbs like "strive", "may" or words like "possibly", "where possible" - the provisions will be seen as imposing an obligation "of efforts", rather than one "of results". This is why the panel ruled that, while Korea's efforts to ratify missing ILO conventions could be qualified as 'less than optimal', the country had not acted inconsistently with its obligations. This a confirmation that language matters, and that the EU needs to ensure the commitments listed in its TSD chapters are more measurable and actionable.

In terms of the Dispute Settlement Mechanism attached to TSD chapters, Eurogroup for Animals also believes that it is lacking a more effective enforcement mechanism. When dealing with a trading partner acting in bad faith, the EU should be allowed to resort to last-resort sanctions.

The European Commission affirmed, after the first consultation on TSD chapters, that sanctions in trade agreements "would not guarantee that [they] will result in effective, sustainable and lasting improvement of key social and environmental standards". In addition, government and EU officials often consider that, while trade can contribute to promoting our values, it cannot solve all the problems in the world. Most NGOs, including Eurogroup for Animals, do agree with this statement.

¹⁰ <https://www.telegraph.co.uk/travel/news/wildlife-tourism-wttc-poaching/>

¹¹ <https://trade.ec.europa.eu/doclib/press/index.cfm?id=2044>

However, trade has an impact on animals, the environment and labour conditions, and it should not aggravate existing situations by increasing animal suffering, illegal wildlife trafficking or biodiversity losses.

Regarding the use of sanctions, while one can agree that nothing can guarantee changes in a sovereign country, it would be wrong to imply that the threat of sanctions never leads to lasting results. Taking the example of the EU regulation on illegal, unreported and unregulated (IUU) fishing, the EU has shown it can adopt a stronger approach to preserve the environment. Indeed, this regulation was enacted in 2008 to step up the fight against IUU fishing and its widely recognised damaging economic, social and environmental impact. The regulation set up what is commonly called the ‘carding system’ whereby the EU can warn a country that its fisheries does not respect the established criteria (or grant the country a ‘yellow card’) and even list that country as uncooperative (or grant him a ‘red card’), which automatically implies its fishery imports will be banned from the EU market. Once a country is warned, a proper dialogue between the EU and the partner starts. This is often the occasion for the EU to provide intense capacity-building assistance. In most cases, the ‘yellow card’ does not lead to a ‘red one’ as the partner country improves the situation in the fishing industry to prevent a ban on its import. The lessons learned from a decade of using that procedure show it can achieve concrete results, and this by using both a carrot (technical assistance from the EU) and a stick (potential ban on imports).

As the objective should remain a change on the ground - and not imposing sanctions - this stronger approach should go hand in hand with deeper involvement with the partner country. Once an issue is spotted, detailed road maps of items to be addressed by the countries should be prepared, and cooperation mechanisms should be put in place to support the country’s efforts.

With a more developed country, Eurogroup for Animals would encourage the EU to adopt an approach similar to the one displayed with the UK. The EU-UK Trade and Cooperation Agreement set a level of standards that should be maintained, regardless of the impact of a potential deregulation on trade, and in case of violations, remedies are foreseen.

Question 7: The European Commission has created the Chief Trade Enforcement Officer and the Single Entry Point in 2020. What in your opinion is their distinct contribution to the implementation and enforcement of the EU's TSD chapters?

Eurogroup For Animals welcomes the appointment of a Chief Trade Enforcement Officer (CTEO) and its enthusiasm towards the work of the DAGs. Eurogroup for Animals invites the Commission to allocate more resources to the CTEO. An efficient implementation of FTAs, including the functioning of DAGs, requires sufficient political and human resources, as several DGs are involved in the process.

Eurogroup For Animals also welcomes the creation of the Single Entry Point (SEP), but regrets that at the moment, its impact has not been high.. One of the key issues is the weakness of language contained in many TSD chapters that makes it very hard to find a proper violation of the text. The case of the EU-Ukraine Deep and Comprehensive Free Trade Agreement (DCFTA) illustrates this difficulty. Since its entry into force, the agreement has led to a tripling of Ukrainian chicken meat imports into the EU, fostering a very unsustainable trade between both partners. The Ukrainian chicken meat sector has been under a lot of scrutiny for its detrimental impact, not only on animal

welfare but also on workers, neighbouring people and the environment. Yet, it is difficult to find any provision in the DCFTA's TSD chapter that would allow raising it through the SEP. The agreement includes an article calling for trade to favour sustainable development (article 293), with provisions underlining that trade "should promote sustainable development in all its dimensions" and that "the Parties shall strive to facilitate trade in products that contribute to sustainable development." This is not enough to denounce the negative impact the DCFTA has had on this sector.

Question 8: Is the level of transparency and available information on the implementation and enforcement of TSD chapters sufficient for civil society to follow and to contribute to these processes? Where do you see gaps? Do you have suggestions to address them?

While much information is available on DG Trade's website, the website is not user-friendly (information is spread between a section on transparency and one on the EU's agreements and negotiations. In addition, there are older reports on specific committees that do not seem to be accessible.

Minutes of the meetings are often vague and do not always allow to grasp the content of the conversation ongoing between the EU and the trading partners. This can create suspicions, even if unfounded, among external observers. Meetings of the DAGs - or direct contact with a Commission representative - often lead to a better understanding, but this is not accessible to many stakeholders that could be interested in the implementation of a trade agreement.

Subsequently, Eurogroup for Animals would recommend:

- To improve DG trade's website to facilitate access to the information on implementation meetings, and to work with the EESC to also improve the DAGs' webpages (possibly linking these pages to the page on the related agreement on DG Trade's website). It should be easy for any stakeholder interested in the work of each DAG to contact its secretariat for more information.
- The Commission should make sure it sends well-informed representatives with the required expertise to DAG meetings.
- The DAGs should publish their minutes.
- The Commission should also ensure that DAGs interact more with the European Parliament and with the Member States.
- Meetings (DAGs but also Civil Society Forum) should be announced sufficiently early to ensure proper participation, and enough time should be left to questions from civil society - also on topics that are not put on the agenda by the Parties.

Question 9: Do you think EU TSD chapters need additional remedies to ensure enforcement? If so, what type of remedies would be effective in contributing to sustainable development? Would there be a need for a targeted approach (i.e. adapted to the nature of commitments or for specific sustainability priorities)?

Eurogroup for Animals believes there is a need for additional remedies to ensure enforcement. So far, if a country does not apply the recommendations made by the panel constituted to resolve the dispute, there are no additional options to put further pressure to resolve the issue at stake.

The most appropriate enforcement mechanism would be to link commitments in the TSD chapter to commitments in the market access chapter. Hence, the lack of enforcement of the TSD chapter, could potentially result in the suspension of the trade preferences on relevant products. The measure should only be used as a last resort, and should be proportionate. In the short term, it is possible that such measures could hurt a sector, and thus workers, but long term considerations - for instance in relation to biodiversity and climate, respect of labour rights, of animal welfare, and ensuring public health - should prevail.

As this solution should remain a last resort one, the focus, once a violation is established, should be on cooperation on the ground: establishing clear roadmaps with measurable commitments and cooperation mechanisms - technical assistance if appropriate - to ensure the partner country can move forward.

Question 10: Do you see any disadvantages with the introduction of additional remedies for the enforcement of TSD chapters, including their impact on the cooperation and engagement on the ground?

As much as there could be tension with the partners, Eurogroup for Animals believes that, if the EU balances a sanction-based approach with a more proactive stance on cooperation, the tensions would be reduced.

Question 11: Are there remedies used by other countries that you think should be considered?

Rather than fines, which are used by Canada, Eurogroup for Animals would suggest introducing remedies by playing with trade preferences granted on relevant products. In cases where it cannot be done, or if deemed more appropriate, a fine-based system could be defined. In any case, the extra tariffs or the fines collected should be used to finance projects in the partner country contributing to solving the issue at stake.

Question 12: Are there any key additional environmental or climate commitments that should be covered by TSD chapters? What areas should the EU prioritise in TSD implementation, and what actions do you think should be pursued to make progress on those priorities?

The TSD chapters in EU FTAs should contain a recognition of the link between sustainable development and animal welfare. While protecting animal welfare is essential to sustainable development in its own right (and is recognised as a dimension of a sustainable agriculture),¹² it is also complementary to a number of other aspects of sustainable development. Among the UN SDGs, several are either directly connected to animals or cannot be achieved without addressing animal welfare related issues.¹³ The challenges we are facing will require compromised solutions and it is important to clarify that animal welfare cannot be traded off, to the contrary.

¹² Speech by Dacian Cioloş (then European Commissioner for Agriculture and Rural Development), [Europe's path towards sustainable agriculture](#), G20/Rio De Janeiro, 21 June 2012

¹³ Eurogroup for Animals, [Animal Welfare, Trade and Sustainable Development Goals](#), October 2019 & Linda Keeling et al, ["Animal Welfare and the United Nations Sustainable Development Goals"](#), Frontiers in Veterinary Science, 6:336, October 2019

At the moment, while there are provisions in EU TSD chapters on sustainable aquaculture, there is none on sustainable agriculture. As the EU now aims to have a specific chapter - also based on cooperation - on sustainable food systems, which will include animal welfare provisions, it will be important to properly articulate this new chapter with the TSD chapter - to which it is intrinsically linked. Food systems, and animal welfare, are at the heart of most challenges the planet is facing and it is crucial to avoid a silo-based approach.

Intensive industrial farming has a very negative impact on the environment (on air, water and ground pollution), on biodiversity (as related land-use changes lead to a loss of habitat), on antimicrobial resistance and on climate change (both as animals emit greenhouse gases and because of the related deforestation), on livelihoods and wildlife conservation¹⁴. This type of farming is also detrimental to animal welfare as it implies a confinement of the animals that intrinsically negates the possibility to respect their welfare, cramming them into tiny and barren spaces where they cannot express natural behaviour, and where they are more vulnerable to diseases.

The exploitation of wild animals, including for unsustainable and illegal trade, is also a key driver of biodiversity decline, as identified by the 2019 IPBES Global Assessment Report¹⁵. The EU Biodiversity Strategy to 2030 acknowledges that for a just transition to a more biodiversity-friendly society, biodiversity protection and restoration and climate action need to become an integral part of all relevant EU policies. This includes trade. The TSD chapters should include more proactive and detailed language on wildlife conservation and welfare. In addition to addressing wildlife trafficking, EU TSD chapters should also cover trade in wild animals, and species that are not yet protected under CITES. Although CITES is a powerful tool to regulate or even ban the international trade of threatened species, there are several criminal ways to circumvent it – export quotas may be systematically exceeded or inappropriately set. A lack of knowledge and expertise on certain species, especially reptiles, also contributes to an increase in the trade of more endangered species. In addition, many species that deserve to be protected under CITES are not, and even if they are protected under local law, their trade in the EU would be deemed legal. Adopting a ‘positive list’ approach (listing the species that can be traded, rather than those that cannot) would ensure the trade in exotic or endangered species is not stimulated. This approach would also facilitate enforcement by customs authorities and be more precautionary towards species whose conservation status is unknown at the moment. The EU should also consider species-specific commitments and strong provisions on deforestation – a clear driver of biodiversity loss.

Question 13: Are there any key additional labour rights that should be covered by TSD chapters? What areas should the EU prioritise in TSD implementation, and what actions do you think should be pursued to make progress on those priorities?

N/A

¹⁴ Read more about this in Eurogroup for Animals, [Animal Welfare, Trade and SDGs](#), 2019

¹⁵ <https://ipbes.net/global-assessment-report-biodiversity-ecosystem-services>

Question 14: How can the implementation of EU TSD chapters contribute to a greener, socially just and more resilient post-Covid-19 global economic recovery? What areas should the EU prioritise in TSD implementation and what actions do you think should be pursued to make progress on those priorities?

The COVID-19 crisis has painfully put the spotlight on the detrimental impact of economic and trade policies that prioritise profits above all¹⁶, stressing the need to rapidly build more resilient and sustainable societies. To do so, it is important to not only address the symptoms, but also the root causes of pandemics, many of which are related to the use of and trade in animals, and animals-related products. One of the ways EU trade policy could help build up the EU's resilience is by better addressing animal welfare, as this would contribute to lessen the risks of future pandemics, and help fight the rise of antimicrobial resistance and the climate crisis.

Subsequently, EU trade policy could contribute to a greener, socially just and more resilient post Covid-19 recovery by:

- Better addressing legal and illegal trade in wild animals
- Ensuring that unsustainable model of production, such as intensive livestock farming, are not stimulated by EU FTAs
- Serving as a platform for cooperation with relevant partners on ending fur farming and dog and cat meat trade

The EU could also contribute to this transition by generating fruitful cooperation among EU and non-EU civil society organisations. This is a more long term objective that requires refining language around civil society involvement in the chapters, and providing more support to these organisations. This joint work of civil society organisations can help improve norm diffusion and norm localisation, demonstrating the support for such norms in the partner countries.

Wildlife and Zoonoses

Many viruses can be transmitted between animals and from animals to humans; indeed, over 60% of all human infectious diseases recognised so far are zoonoses (diseases that can spread from animals to humans), and about 75% of emerging infectious diseases that have affected people over the past three decades originated from animals¹⁷. In fact, scientists have probably identified only a fraction of the viruses that have co-evolved in a variety of wild animals, and a wide diversity of viruses are still to be identified in wildlife¹⁸. A recent paper concludes an estimated 1.6 million viral species are yet to be discovered in mammal and bird populations; of those, an estimated 650,000 to 840,000 have the

¹⁶ IPBES - <https://ipbes.net/covid19stimulus> - “As with the climate and biodiversity crises, recent pandemics are a direct consequence of human activity – particularly our global financial and economic systems, based on a limited paradigm that prizes economic growth at any cost.”

¹⁷ Taylor LH, Latham SM, Woolhouse ME. [Risk factors for human disease emergence](#). Philos Trans R Soc Lond B Biol Sci. 2001;356(1411):983-989

¹⁸ Taylor LH, Latham SM, Woolhouse ME. [Risk factors for human disease emergence](#). Philos Trans R Soc Lond B Biol Sci. 2001;356(1411):983-989

capacity to infect and cause disease in humans¹⁹. However, wild animals have carried viruses and bacteria for millennia. What has changed is the way humans interact with them, due to urbanisation, destruction of wildlife's natural habitats, and the growing legal and illegal wildlife trade.

While research is not conclusive about the source of the SARS-COV-2, the virus that causes COVID-19, it is widely believed to have been transmitted from wildlife to humans as a consequence of the proximity and variety of species sold in a Chinese wildlife market. However, the disease could just as easily have originated here. The EU is a major destination for exotic pets, including primates, reptiles, and amphibians, which are legally and illegally traded and transported to be sold and kept in EU homes, in most cases with few or no sanitary controls. Not only is this a threat to human health, it also threatens biodiversity. In addition, extraction of wildlife for the pet trade, with the EU as a main market, often has dramatic consequences on the home environment of those species, in many cases contributing to deforestation and forest degradation. In 2018, the reported value of illegal wildlife trade in the EU was at least EUR 2.3 million²⁰. Illegally smuggled animals are likely to have been transported in close confinement in unsanitary conditions and so also present a very clear risk of zoonosis infection.

A better regulation of the legal trade in wild animals and further efforts to fight their trafficking should become key components of the revised EU trade policy.

Livestock Farming and Public Health

Zoonoses are favoured not only by the increasing trade in wild animals, but also by the spread of intensive animal farming. Changes in land and sea use and loss of habitat for agricultural purposes, especially for the intensification of animal farming, cause more frequent and closer interactions between animals both farmed and wild, humans, and ecosystems. This pressure on biodiversity has been recognised as a major cause of the spread of zoonoses. These species and habitats not only have an intrinsic right to be protected, but should in fact be much better protected, since together they also aid human health by providing vital ecosystem services such as clean air and water, and protection against erosion and drought.

But the next – and potentially even worse – pandemic could also easily emerge from what is now the norm in food production in most developed parts of the world: intensive farming. Farmed animals kept by the billions (trillions, if we consider fish in aquaculture) are reservoirs and pathways for diseases that can be dangerous, if not devastating, for humans and wild animals. A recent study found that "since 1940, agricultural drivers were associated with >25% of all – and >50% of zoonotic — infectious diseases that emerged in humans, proportions that will likely increase as agriculture expands and intensifies".²¹ In 2009, the world faced another pandemic which emerged from farm animals, the H1N1 swine flu. Back then, the US Center for Disease Control and Prevention (CDC) reported that it had killed between 151,000 and 575,000 people worldwide, 80% of which were under 65 year old²². Scientists are also warning that certain coronaviruses circulating among pigs could, in the future, be transmitted to people.²³ It is often argued by the poultry sector that avian influenza is mainly spread by wild birds. However, the viruses carried by these birds are usually of

¹⁹ <https://science.sciencemag.org/content/359/6378/872>

²⁰ <https://www.traffic.org/site/assets/files/12745/eu-seizures-report-2020-final-web.pdf>

²¹ <https://www.nature.com/articles/s41893-019-0293-3#Ack1>

²² <https://www.cdc.gov/flu/pandemic-resources/2009-h1n1-pandemic.html>

²³ http://english.cas.cn/newsroom/archive/news_archive/nu2018/201804/t20180409_191518.shtml

low pathogenicity²⁴ and it is only when it reaches overcrowded sheds that such harmless viruses can evolve into a more dangerous form of avian influenza^{25 26}.

In addition to favouring the likeliness of zoonoses, intensive livestock farming also contributes to the surge in antimicrobial resistance (AMR). Indeed, the overuse of antimicrobials in livestock production is said to be the primary cause of this phenomenon.²⁷ The surge in AMR is not due to small-scale productions, but to the spread of intensive farming systems, in which antimicrobial products are routinely and increasingly used. The EU's "One Health" Action Plan against AMR already recognises the link between this issue and poor farm welfare practices, underlining the importance of addressing this concern in trade policy (see box on antimicrobial resistance).

EU trade policy should thus rely on conditional liberalisation and strong cooperation mechanisms to ensure FTAs do not stimulate the spread of intensive farming systems.

Fur Farming and Covid-19

Fur farming is very detrimental to the welfare of wild animals, as the needs of such animals can never be fulfilled in captivity. Minks are, for instance, kept in cramped wired cages. The animals, which are weakened and stressed, are very prone to viruses and these farms have become a hotbed for infectious diseases²⁸.

Since April 2020, several EU countries - the Netherlands, Denmark, Spain, Sweden, Italy, France, Poland, Greece and Lithuania, have witnessed outbreaks of COVID-19 in mink farms. So did Canada and the US. Cases where humans got infected were detected. In reaction, several EU countries already decided to put an end to fur farming (the Netherlands, France, Hungary by banning the breeding of several fur animals) or suspended the activity of the sector (Sweden, Italy).

The EU should bring up this topic with partner countries, in the context of cooperation on a transition towards more sustainable and resilient societies. It should also consider banning both production of fur at EU level, on public health and animal welfare grounds, as well as, in a longer term, the placing on the market of fur products - on ethical grounds.

The health cost of dog and cat meat trade

The trade in dog and cat meat occurring mostly in Southeast Asian countries represent a risk to public health. First, this trade implies a large-scale movement, sale and slaughter of dogs and cats of unknown health status, which can lead to increased transmission of zoonotic bacteria and diseases including but not limited to rabies, cholera, and Trichinella. Second, the dog meat trade undermines

²⁴ <http://www.fao.org/avianflu/en/wildlife/index.html>

²⁵

https://www.cms.int/sites/default/files/Scientific%20Task%20Force%20on%20Avian%20Influenza%20and%20Wild%20Birds%20H5N8%20HPAI%20December%202016_FINAL.pdf

²⁶ Nickbakhsh, S. et al., 2016, Modelling the impact of co-circulating low pathogenic avian influenza viruses on epidemics of highly pathogenic avian influenza in poultry, *Epidemics*, 17:27-34

²⁷ https://www.cddep.org/wp-content/uploads/2017/10/science_0929PolicyForum-1.pdf

²⁸ <https://www.four-paws.org/campaigns-topics/topics/animals-abused-for-fashion/covid-19-in-fur-farms>

rabies control programs by removing vaccinated dogs (who help form a barrier against the spread of rabies), and transporting potentially infected animals across cities, provinces, and national borders²⁹.

As a public health threat at national level can quickly have global implications, this topic should be raised by the EU with relevant trade partners.

Question 15: Are there any other important topics not covered by the questions above that the TSD review should address?

N/A

²⁹

https://media.4-paws.org/8/0/0/3/80039a8956751c7b9bf934c35993858592182db3/FOURPAWS_Big_DCMT_Report_GB.pdf

EUROGROUP FOR ANIMALS

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